

Rev. 03/01/2003

Attorney Docket No.: NVID-057/00US
Client Reference No.: P000712

PATENT

I hereby certify that this correspondence is being transmitted by facsimile addressed to Mail Stop Petitions,
Facsimile Number (703) 308-7751, at United States Patent and Trademark Office, Alexandria, VA 22313-
1450 on December 8, 2004.

By: 

Dolores McKay

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of William Samuel HERZ

Serial No.: 10/609,204

Examiner: Not assigned

Confirmation No.: 7323

Art Unit: 2611

Filed: June 27, 2003

For: APPARATUS AND METHOD FOR 3D ELECTRONIC PROGRAM GUIDE NAVIGATION

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**PETITION UNDER 37 CFR 1.181(a) TO WITHDRAW HOLDING OF
ABANDONMENT BASED ON EVIDENCE THAT A REPLY WAS TIMELY MAILED
OR FILED**

In response to the Notice of Abandonment mailed on October 15, 2004, Applicant hereby petitions to withdraw the holding of abandonment of the above-identified U.S. Patent Application under 37 CFR 1.181(a) and MPEP section 711.03(c).

Applicant respectfully submits that a reply to the Notice to File Missing Parts of September 23, 2003 was timely filed on November 20, 2003. A copy of the reply that was filed on November 20, 2003 is included in Exhibit 1.

A petition to withdraw a holding of abandonment is appropriate in cases where Applicant contends that the application is not in fact abandoned. See, e.g., MPEP, section 711.03(c). Evidence establishing that a reply was timely filed can include a true copy of an Express Mail mailing label (for a reply filed by the Express Mail procedure) or by a postcard receipt that properly identifies the reply. See, e.g., MPEP section 711.03(c) I (B)

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Application Serial No.: 10/609,204

Page 2

Applicant hereby submits evidence that a reply to the Notice to File Missing Parts of October 23, 2003 was timely filed in the United States Patent and Trademark Office on November 20, 2003. Exhibit 2 is a true copy of Express Mail label No. EV316173639US demonstrating that a reply was filed in accordance with Express Mail procedures on November 20, 2003. Exhibit 3 is a true copy of a postcard receipt that identifies that the required reply to the Notice to File Missing Parts was filed and which is stamped by the Patent and Trademark Office with a date of November 20, 2003.

In support of this Petition, Applicant submits the following Exhibits:

- Exhibit 1: A true copy of the reply that was filed in response to the Notice to File Missing Parts of September 23, 2003. The copy of the reply includes the following documents: a copy of the Notice to File Corrected Papers mailed on September 23, 2003, a Letter to the Official Draftsperson, (15) Sheets of Formal Drawings, containing Figures 1 to 14, an Information Disclosure Statement Transmittal, an Information Disclosure Statement, and Form PTO/SB/08A.
- Exhibit 2: A true copy of Express Mail Label No. EV316173639US postmarked with the date of November 20, 2003; and
- Exhibit 3: A copy of the return receipt postcard for this case that was stamped by the U.S. Patent and Trademark Office with the date of November 20, 2003.


Applicant notes that the MPEP states in section 711.03 that a Petition to Withdraw a Holding of Abandonment does not require a fee, such that it is believed that no fee is required.

Dated: December 8, 2004

Respectfully submitted,
COOLEY GODWARD LLP

Cooley Godward LLP
ATTN: Patent Group
Five Palo Alto Square
3000 El Camino Real
Palo Alto, CA 94306-2155
Tel: (650) 843-5000
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EVG:dm

By:


Edward A. Van Gieson
Reg. No. 44,386



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/609,204	06/27/2003	William Samuel Herz	NVID-057/00US

23419
COOLEY GODWARD, LLP
3000 EL CAMINO REAL
5 PALO ALTO SQUARE
PALO ALTO, CA 94306

CONFIRMATION NO. 7323

FORMALITIES LETTER

OC000000010908151

Date Mailed: 09/23/2003

NOTICE TO FILE CORRECTED APPLICATION PAPERS

Filing Date Granted

An application number and filing date have been accorded to this application. The application is informal since it does not comply with the regulations for the reason(s) indicated below. Applicant is given TWO MONTHS from the date of this Notice within which to correct the informalities indicated below. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

The required item(s) identified below must be timely submitted to avoid abandonment:

- Replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121 are required. The drawings submitted are not acceptable because:
 - The drawings must be reasonably free from erasures and must be free from alterations, overwriting, interlineations, folds, and copy marks. See Figure(s) 4A & 4B.
 - The drawings have a line quality that is too light to be reproduced (weight of all lines and letters must be heavy enough to permit adequate reproduction) or text that is illegible (reference characters, sheet numbers, and view numbers must be plain and legible) see 37 CFR 1.84(f) and (p)(1); See Figure(s) 9.

Replies should be mailed to: Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

*A copy of this notice **MUST** be returned with the reply.*

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Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

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From-COOLEY GODWARD LLP

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P.028/031

F-352



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PALO ALTO CA 94306-2116

EDWARD A. VAN GIGSON
NVID-057/0005 (140060-2119)

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THE FOLLOWING HAS BEEN RECEIVED IN THE U.S. PATENT OFFICE ON THE DATE STAMPED HEREON:

O REGULAR/PROVISIONAL APPLICATION:

- ☐ PPS DESCRIPTION
- ☐ PPS CLAIMS
- ☐ PPS ABSTRACT
- ☐ PROVISIONAL COVER SHEET
- ☐ APPLICATION DATA SHEET
- ☒ DRAWINGS: 15 SHEETS OF 15 FORMAL
- ☒ EXECUTED/UNEXECUTED DECLARATION/POA
- ☐ POWER OF ATTORNEY
- ☐ NON-PUBLICATION REQUEST
- ☐ RECORDATION FORM COVER SHEET
- ☐ ASSIGNMENT
- ☐ ASSERTION OF SMALL ENTITY STATUS
- ☐ REQUEST FOR REFUND
- ☐ RESPONSE/AMENDMENT

- ☒ RESPONSE TO NOTICE TO FILE MISSING PARTS
- ☒ NOTICE TO FILE MISSING PARTS
- ☒ INFORMATION DISCLOSURE STATEMENT
- ☒ FORM PTO/SB/08
- ☒ CITED REFERENCES 15
- ☐ SEQUENCE LISTING - HARD COPY
- ☐ SEQUENCE LISTING - ASCII FORMAT, DISKETTE / CD
- ☐ NOTICE OF APPEAL
- ☐ APPEAL BRIEF
- ☐ ISSUE FEE TRANSMITTAL
- ☐ TRANSMITTAL
- ☐ REQUEST FOR CORRECTION OF
- ☐ PETITION FOR EXTENSION OF TIME (____ MONTHS)
- ☐ CHECK NO. _____ FOR \$ _____
- ☒ EXPRESS MAIL # EV 316173639 US
- ☐ OTHER: _____

SERIAL NO.: 101609, 204
ATTORNEY DOCKET NO.: NVID-057/0005
MAIL DATE: 11/20/03
DUE DATE: 11/23/03
ATTORNEY/SECRETARY: EUG/dm

M.S. MISSING PARTS

EXHIBIT 2



EV 316173639 US



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Time In Mo. Day Year 11 06 2003		Return Receipt Fee \$		Delivery Date Mo. Day Time <input type="checkbox"/> AM <input type="checkbox"/> PM		Employee Signature [Signature]	
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No Delivery <input type="checkbox"/> Weekend <input type="checkbox"/> Holiday		Acceptance Clerk Initials		Total Postage & Fees \$ 27.30			
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EXHIBIT 3

THE FOLLOWING HAS BEEN RECEIVED IN THE U.S. PATENT OFFICE ON THE DATE STAMPED HEREON:

☐ REGULAR/PROVISIONAL APPLICATION:

- ☐ PPS DESCRIPTION
☐ PPS CLAIMS
☐ PPS ABSTRACT

☐ PROVISIONAL COVER SHEET

☐ APPLICATION DATA SHEET

☒ DRAWINGS: 15 SHEETS OF ~~15~~ / FORMAL

☐ EXECUTED/UNEXECUTED DECLARATION / POA

☐ POWER OF ATTORNEY

☐ NON-PUBLICATION REQUEST

☐ RECORDATION FORM COVER SHEET

☐ ASSIGNMENT

☐ ASSERTION OF SMALL ENTITY STATUS

☐ REQUEST FOR REFUND

☐ RESPONSE/AMENDMENT

☒ RESPONSE TO NOTICE TO FILE MISSING PARTS

☒ NOTICE TO FILE MISSING PARTS

☒ INFORMATION DISCLOSURE STATEMENT

☒ FORM PTO/SB/08

☒ CITED REFERENCES 15

☐ SEQUENCE LISTING - HARD COPY

☐ SEQUENCE LISTING - ASCII FORMAT, DISKETTE / CD

☐ NOTICE OF APPEAL

☐ APPEAL BRIEF

☐ ISSUE FEE TRANSMITTAL

☐ TRANSMITTAL

☐ REQUEST FOR CORRECTION OF

☐ PETITION FOR EXTENSION OF TIME (____ MONTHS)

☐ CHECK NO. _____ FOR \$

☒ EXPRESS MAIL # FV 31617363905

☐ OTHER:

☒ Letter to Draftsperson

SERIAL NO.: 10/609,204
 ATTORNEY DOCKET NO.: NUID-057/0005
 MAIL DATE: 11/20/03
 DUE DATE: 11/23/03
 ATTORNEY/SECRETARY: EUG/dm

☒ M.S. MISSING PARTS





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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY DOCKET NO./TITLE
10/609,204	06/27/2003	William Samuel Herz	NVID-057/00US

23419
COOLEY GODWARD, LLP
3000 EL CAMINO REAL
5 PALO ALTO SQUARE
PALO ALTO, CA 94306

CONFIRMATION NO. 7323
ABANDONMENT/TERMINATION
LETTER

OC000000014102419

Date Mailed: 10/15/2004

NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 09/23/2003.

- No reply was received.

A petition to the Commissioner under 37 CFR 1.137 may be filed requesting that the application be revived.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Any questions concerning petitions to revive should be directed to the "Office of Petitions" at (703) 305-9282. Petitions should be mailed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

*A copy of this notice **MUST** be returned with the reply.*

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